

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PACIFIC GAS AND ELECTRIC
COMPANY,

Defendant.

Case No. 14-cr-00175-TEH

**ORDER DENYING DEFENDANT'S
REQUEST FOR JUDICIAL NOTICE
OF FACTS RELATED TO 49 U.S.C.
§ 60105(a)**

On July 19, 2016, Defendant Pacific Gas and Electric Company ("PG&E") filed a request for judicial notice of two facts related to 49 U.S.C. § 60105(a): that "California was a certifying state under 49 U.S.C. § 60105(a) during the years covered by the indictment" and that "the defendant's pipelines are intrastate pipeline facilities within the meaning of that section." Dkt. No. 776 at 2. The Government timely opposed this request. Dkt. No. 789.

PG&E simultaneously sought to introduce into evidence exhibits that would prove these two facts. This Court sustained the Government's objections to PG&E's proposed exhibits, explaining that California's status as a certified state is irrelevant, and that "the exhibits risk confusing the issues the jury is being asked to consider, while offering little to no probative value." Dkt. No. 798 at 1-2; *see also* Dkt. No. 216 (disagreeing with PG&E's argument that § 60105(a) required dismissal of Counts 2 through 28 because California is a certified state). The Court noted that its evidentiary ruling did "not prevent PG&E from offering some better explanation for the relevance of such information in a reply in support of its separately pending Request for Judicial Notice," and it invited PG&E "to offer such justification" by filing a reply brief no later than 9:00 AM on July 24, 2016. Dkt. No. 798 at 2 n.1.

PG&E timely filed a reply brief stating only that it proffered the challenged exhibits, D-400 and D-401, to the Court on July 22, 2016, and that "[i]n light of this

1 proffer and the Court's ruling on the evidence, the defendant has no additional argument in
2 support of this motion." Dkt. No. 809 at 1. PG&E has therefore failed to provide the
3 Court with any further explanation as to why the two facts of which it seeks judicial notice
4 are relevant. Nor has PG&E provided any argument as to why this Court should take
5 judicial notice of irrelevant facts on which the Court has already excluded proffered
6 evidence.

7 Accordingly, PG&E's request for judicial notice of facts related to 49 U.S.C.
8 § 60105(a) is hereby DENIED.

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10 **IT IS SO ORDERED.**

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12 Dated: 07/26/16



THELTON E. HENDERSON
United States District Judge